

RODNEY E. LEWIS, JR., OSB #74192

rodlewis@dwt.com

PAUL E. LOVING, OSB #94219

paulloving@dwt.com

DAVIS WRIGHT TREMAINE LLP

1300 S.W. Fifth Avenue, Suite 2300

Portland, Oregon 97201

Telephone: (503) 241-2300

Facsimile: (503) 778-5299

Of Attorneys for Plaintiff, Federation Internationale
de Football Association (FIFA)

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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

◀ AT PORTLAND

**FEDERATION INTERNATIONALE DE
FOOTBALL ASSOCIATION (FIFA),**

PLAINTIFF,

v.

**JOHN DOES 1-50, JANE DOES 1-50, and
ABC COMPANIES 1-50, individuals and
business entities,**

DEFENDANTS.

Case No.

CV '03 . 1309 HA...

**COMPLAINT FOR COPYRIGHT AND
TRADEMARK INFRINGEMENT,
DILUTION, FALSE DESIGNATION OF
ORIGIN, DECEPTIVE TRADE
PRACTICES AND UNFAIR
COMPETITION**

COMPLAINT

Plaintiff, Federation Internationale De Football Association (FIFA) by its attorneys, files
this Complaint against John Does 1-50, Jane Does 1-50 and ABC Companies 1-50 alleging as
follows:

Page 1 – COMPLAINT: Copyright/Trademark Infringement/Dilution/False Designation of
Origin/Deceptive Trade Practices/Unfair Competition

DAVIS WRIGHT TREMAINE LLP
1300 S.W. Fifth Avenue • Suite 2300
Portland, Oregon 97201 • (503) 241-2300

PDX 1063453v1 88-88
Portland

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Parties

1. Plaintiff FIFA is an unincorporated Swiss association having its principal place of business at Hitzigweg 11, 8032 Zurich, Switzerland. FIFA is the worldwide governing body of association football (soccer), made up of the national soccer federations of 203 countries. It is the organizer of the world famous FIFA Women's World Cup soccer tournament, which is scheduled to take place in Washington, D.C., Portland, Oregon and four (4) other cities in the United States between September 20 and October 12, 2003. The Portland dates are September 28, October 2, and October 5, 2003.

2. On information and belief, Defendants John Does 1-50, Jane Does 1-50 and ABC Companies 1-50 are either residents of, or are present in this judicial district, are transacting and doing business at premises in this judicial district, and are subject to the jurisdiction of this Court. Defendants, either alone or through their agents, servants, or employees, are manufacturing, distributing, selling and/or offering for sale goods and merchandise which infringe upon some or all of the respective copyrights and trademarks of Plaintiff FIFA. The identities of the various John Does, Jane Does and ABC Companies are unknown to Plaintiff at this time, but the Defendants are expected to be seen engaged in their illegal activities in or around PGE Park in Portland, Oregon during September and October 2003. This Complaint will be amended to include the names of the Defendants when they are identified.

3. John Does 1-50, Jane Does 1-50 and ABC Companies 1-50 inclusive, are hereinafter collectively referred to as "Defendants."

4. Upon information and belief, Defendants are individuals or business entities that are acting alone or in concert and active participation with each other in committing the

wrongful acts alleged herein.

Jurisdiction and Venue

5. This is a civil action arising under the trademark and copyright laws of the United States. Accordingly, this Court has federal question jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121, 17 U.S.C. § 501, 28 U.S.C. § 1331, and 28 U.S.C. § 1338 (a) and (b), diversity jurisdiction under 28 U.S.C. § 1332, as well as supplemental jurisdiction over the state law claims asserted herein.

6. Venue in this district is proper under 28 U.S.C. § 1391 (b) and 28 U.S.C. § 1391 (b) and 28 U.S.C. § 1400 (a).

The Women's World Cup

7. The Women's World Cup is an international soccer competition organized under the auspices of Plaintiff FIFA. This competition, which features teams from around the world, culminates every four years in a series of matches in a specific host country. The first Women's World Cup was held in 1991; two other Women's World Cup soccer tournaments have followed. In 2003 the fourth FIFA Women's World Cup soccer championship competition will take place in six (6) cities throughout the United States, including Portland, Oregon and Washington, D.C., and will feature teams from all over the world.

8. Despite its relative youth, the FIFA Women's World Cup soccer tournament has enjoyed tremendous popularity. The Women's World Cup enjoyed tremendous success when it was last held in 1999, drawing 1,194,215 spectators to the matches and approximately 40 million television viewers, as well as 90,185 live spectators to the tournament's final match at

the Rose Bowl in Pasadena, the largest number of live spectators ever to attend an all-women's sporting event.

9. Plaintiff FIFA is the authorized holder of all right, title and interest in and to trademarks, emblems, symbols, names, terminology and designations connected or associated with the World Cup and Women's World Cup soccer championship competition, including the following valid, existing and uncanceled trademark registrations and applications in the United States Patent and Trademark Office:

<u>Trademark</u>	<u>Registration No.</u>
FIFA WORLD CUP	2,645,052
WORLD CUP	2,644,871
FIFA	2,661,401
FIFA (word)	2,352,934
FIFA WORLD CUP TROPHY	2,665,107
WOMEN'S WORLD CUP & Device	2,317,715
FIFA WORLD CUP And DESIGN	1,420,790
FAIR PLAY (and device)	2,200,818
FIFA 2 GLOBES (Devicemark)	1,990,937
<u>Trademark</u>	<u>Application Serial No.</u>
FIFA WOMEN'S WORLD CUP (word)	76/399360
FIFA WOMEN'S WORLD CUP CHINA 2003 (word & device)	76/399,361
USA 2003 (word)	78/296522

USA 2003 (word)	78/296530
USA 2003 (word)	78/296489
2 GLOBES (devicemark)	76/412580
2002 KOREA JAPAN (& emblem device)	75/840889
FOR THE GOOD OF THE GAME (word)	76/412581
GERMANY 2006 (& emblem device)	76/477510
GERMANY 2006 (& emblem faces device)	76/477516
MUNDIAL 2006 (word)	76/386072
STYLISTED TROPHY SYMBOL (devicemark)	76/477511

10. FIFA owns all right, title and interest in and to, among others, the following valid, existing and uncanceled copyright registrations in the United States Copyright Office:

<u>Copyright</u>	<u>Reg. No.</u>
FIFA Women's World Cup USA 2003 stylized trophy logo	VAu 567-036
FIFA Women's World Cup USA 2003 Emblem	VAu 567-037
FIFA Women's World Cup USA 2003 Trophy	VAu 567-038
Women's World Cup USA 99 Mascot	VAu 919-486
Women's World Cup Soccer Players set of emblematic drawings	VAu 429-159

11. Plaintiff FIFA is also the owner of the following trademarks, designs and logos, which have been used on products and merchandise and/or in connection with various services throughout the United States: "USA 2003" and "WOMEN'S WORLD CUP 2003".

12. The FIFA World Cup marks, copyrights, emblems, symbols, names, terminology and designations protected under the above-referenced trademark and copyright registrations or otherwise by law have obtained considerable value and secondary meaning and identify to the consuming public, Plaintiff's products and services. The FIFA World Cup and Women's World Cup marks, copyrights, emblems, symbols, designs, logos, names, terminology and designations herein referenced are hereinafter referred to as the "FIFA World Cup copyrights and trademarks."

13. Plaintiff has authorized certain contributors and suppliers of goods or services to use FIFA World Cup copyrights and trademarks in advertising or on goods or merchandise. Authorized use of FIFA World Cup copyrights and trademarks in advertising, or on goods or merchandise, is intended to signify to the public that goods, apparel, merchandise, products, services or contributions were donated, supplied, furnished, approved, selected or used by Plaintiff. Accordingly, Plaintiff has established a policy and practice of restricting use of FIFA World Cup copyrights and trademarks to goods, merchandise and services of exceptionally high quality.

14. Plaintiff has widely distributed throughout the United States, including this District, authorized and licensed goods and merchandise bearing FIFA World Cup copyrights and trademarks. There is a substantial public demand for such goods, and as a result of this public demand, genuine goods and merchandise bearing FIFA World Cup copyrights and trademarks have become valuable commercial properties.

15. Genuine goods and merchandise bearing FIFA World Cup copyrights and trademarks have been advertised to the purchasing public and to the trades throughout the

United States, including this District, on an extensive and frequent basis through a variety of advertising media, including newspapers, magazines, television, radio and various trade publications.

16. Genuine goods and merchandise bearing FIFA World Cup copyrights and trademarks, by reason of their style, design, excellence and quality of workmanship, and by reason of their approval by Plaintiff, have come to be well and favorably known to the purchasing public throughout the United States, including this District, as representing goods and merchandise of the highest quality and utmost prestige. As a result, this FIFA World Cup copyrights and trademarks and the goodwill associated therewith are of inestimable value to Plaintiff.

17. FIFA World Cup copyrights and trademarks have developed a secondary meaning in the public mind, in that the trade and purchasing public come to know and associate FIFA World Cup copyrights and trademarks with Plaintiff and the World Cup and Women's World Cup soccer competition. The goodwill connected with these FIFA World Cup copyrights and trademarks controls and determines the long-term viability of Plaintiff's efforts in organizing the Women's World Cup Tournaments.

Defendants' Unlawful Conduct

18. On information and belief, Defendants manufacture, sell, market or distribute soccer balls, apparel and other items that infringe on FIFA World Cup copyrights and trademarks in that they either include or bear marks, copyrights, emblems, symbols, designs, terminology and/or designations identical to, confusingly similar to, or substantially indistinguishable from FIFA World Cup copyrights and trademarks.

19. On information and belief, Defendants are manufacturing or trafficking in such counterfeit and infringing goods and merchandise in that they have caused infringing and counterfeit goods to enter into commerce and/or be transported or used in commerce.

20. Defendants are not licensed or authorized by Plaintiff or any authorized agent of Plaintiff to use, reproduce or otherwise make use of marks, copyrights, emblems, symbols, terminology and/or designations identical or confusingly similar to or substantially indistinguishable from FIFA World Cup copyrights and trademarks in connection with the manufacture, distribution, advertisement, sale or offering for sale of any goods or merchandise.

21. Defendants' actions are a blatant attempt to confuse and mislead the public as to the source of the goods and merchandise being offered.

22. Defendants have been unjustly enriched by their actions in appropriating unfairly the benefits of Plaintiff's own use, advertising and licensing of FIFA World Cup copyrights and trademarks.

23. Defendants' conduct creates the likelihood of confusion, deception and mistake as to the sources of Defendants' goods and merchandise and as such constitutes a false designation of origin.

24. Defendants' conduct causes Plaintiff to suffer irreparable injuries, including injuries to its reputation and dilution of the distinctive quality of its protected trademarks.

25. Defendants' conduct constitutes trademark infringement.

26. Defendants' conduct constitutes unfair competition.

27. Defendants' conduct constitutes copyright infringement.

28. Defendant's conduct is willful and in knowing violation of law.

29. The harm caused by Defendants' conduct is immediate, continuing and irreparable by law.

FIRST CLAIM FOR RELIEF
(Trademark Infringement)

30. Plaintiff restates and incorporates by reference each and every allegation and claim set forth in the prior paragraphs.

31. Plaintiff FIFA is the sole owner of the FIFA World Cup trademarks.

32. Defendants have infringed and will continue to infringe Plaintiff's rights in the FIFA World Cup trademarks by using a mark or marks identical or confusingly similar to or substantially indistinguishable there from in connection with the sale or offering for sale of goods and merchandise.

33. Defendants' conduct is knowing, willful and intentional.

34. The harm caused by Defendants' conduct is immediate, continuing and irreparable by law.

35. As a direct and proximate result of Defendants' conduct, Plaintiff has and will sustain a loss, and pursuant to 15 U.S.C. § 1114 (1), 15 U.S.C. § 1116, and 15 U.S.C. § 1117, hereby asserts a claim against Defendants for injunctive and monetary relief in an amount to be determined.

SECOND CLAIM FOR RELIEF
(Common Law Trademark Infringement)

36. Plaintiff restates and incorporates by reference each and every allegation and claim set forth in the prior paragraphs.

37. Plaintiff is the owner of the various FIFA World Cup trademarks described herein.

38. Defendants use marks identical or confusingly similar to or substantially indistinguishable from FIFA World Cup trademarks. Defendants' use of FIFA World Cup trademarks in connection with the sale or offering for sale of goods and merchandise has resulted in and is likely to result in confusion, mistake or deception. Defendants' use of FIFA World Cup trademarks has caused and will continue to cause irreparable injury to Plaintiff.

39. Defendants' conduct is knowing and willful, and constitutes a false representation or false designation of origin. Defendants are trading on the goodwill of Plaintiff and they intend for their customers to believe that their counterfeit and infringing goods and merchandise are authorized, licensed or sponsored by Plaintiff. Defendants' use is a use in commerce as it is done in a commercial enterprise and in the context of a sale or offering for sale of goods and merchandise.

40. As a direct and proximate result of Defendants' conduct, Plaintiff has and will sustain a loss, and pursuant to 15 U.S.C. § 1125 (a), 15 U.S.C. § 1116 and 15 U.S.C. § 1117, hereby asserts a claim against Defendants for injunctive and monetary relief in an amount to be determined.

THIRD CLAIM FOR RELIEF
(Trademark Dilution)

41. Plaintiff restates and incorporates by reference each and every allegation set forth in the prior paragraphs.

42. Plaintiff's FIFA World Cup marks are well-known and world-famous.

43. Defendants' goods and merchandise incorporate marks and matter constituting unlicensed and unauthorized copies, replicas, simulations and imitations of the FIFA distinctive trademarks. Defendants' actions are an attempt to encroach upon Plaintiff's business by the use of similar trademarks, names, or devices, with the intention of deceiving and misleading the public. As set forth herein, on information and belief, Defendants' actions are willful and intentional, and are likely to dilute Plaintiff's trademarks and injure Plaintiff's business reputation.

44. Defendants' aforesaid conduct lessens the capacity of the famous FIFA World Cup marks to identify and distinguish Plaintiff's goods and services.

45. As a direct and proximate of Defendants' conduct, Plaintiff has and will sustain a loss, and hereby asserts a claim for injunctive and monetary relief, including actual and punitive damages, in an amount to be determined.

FOURTH CLAIM FOR RELIEF
(Unfair Competition; False Designation of Origin)

46. Plaintiff restates and incorporates by reference each and every allegation set forth in the prior paragraphs.

47. As set forth herein, on information and belief, Defendants' unauthorized use of a mark or marks identical or confusingly similar to or substantially indistinguishable from FIFA World Cup trademarks in connection with and as part of its offering for sale of goods and merchandise is knowing and willful, and constitutes a passing off of Defendants' goods and merchandise as having been licensed, approved, sponsored by or affiliated with Plaintiff. Defendants' use is a use in commerce as it is done in a commercial enterprise and in the context of the sale of goods and merchandise.

(a) as provided by 15 U.S.C. § 1118 and 17 U.S.C. § 502, enjoining Defendants, their agents, servants, employees, attorneys, representatives, successors and assigns and all persons, firms or corporations in active concert or participation with any of Defendants during the pendency of this action and permanently from:

(1) directly or indirectly infringing the above described FIFA World Cup copyrights and trademarks in any manner, including, but not limited to using, reproducing, manufacturing, advertising, selling, offering for sale or distributing any goods or merchandise which picture, reproduce, or utilize FIFA World Cup emblems, symbols, trademarks, copyrights, names, designations or terminology;

(2) applying FIFA World Cup emblems, symbols, trademarks, copyrights, names, designations or terminology, or any reproduction, counterfeit, copy or colorable imitation of the same to any label, sign, print, package, wrapper, receptacle or advertisement used in connection with the manufacture, distribution, sale or offering for sale of any goods, apparel, merchandise or products;

(3) using any simulation, reproduction, counterfeit, copy or colorable imitation of FIFA World Cup emblems, symbols, trademarks, copyrights, names, designations or terminology in connection with the promotion, advertisement, display, marketing sale, offering for sale, manufacture, production, importation, exportation or distribution of any goods, apparel, merchandise or products in the United States; or which relate, connect, associated or tend to relate, connect or associate such goods, apparel, merchandise or products in any way to Plaintiff, the FIFA World Cup or FIFA Women's World Cup soccer competitions, or any supplier or distributor of authentic FIFA World

48. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained a loss, and pursuant to 15 U.S.C. § 1125 (a), 15 U.S.C. § 1116 and 15 U.S.C. § 1117, hereby asserts a claim against Defendants for injunctive and monetary relief in an amount to be determined.

FIFTH CLAIM FOR RELIEF
(Infringement of Copyright)

49. Plaintiff restates and incorporates by reference each and every allegation set forth in the prior paragraphs.

50. Plaintiff is the sole owner of the FIFA World Cup copyrights.

51. Defendants have infringed, and will continue to infringe, Plaintiff's exclusive right to reproduce and to authorize the reproduction of its copyrights.

52. Defendants have infringed, and will continue to infringe, Plaintiff's exclusive right to distribute and to authorize distribution of its copyrights.

53. Defendants have infringed, and will continue to infringe, Plaintiff's exclusive right to prepare derivative works based on its copyrights.

54. Defendants' conduct is knowing, willful and intentional.

55. The harm caused by Defendants' conduct is immediate, continuing and irreparable at law.

56. By reason of the foregoing, Plaintiff hereby asserts a claim against Defendants for injunctive and monetary relief pursuant to 17 U.S.C. §§ 502 through 505.

PRAYER

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly and severally, as follows:

Cup goods, apparel, merchandise or products authorized or licensed by Plaintiff, or to any goods, apparel, merchandise or products sold, manufactured, sponsored, approved by or connected with any World Cup organization or related company;

(4) using any copyright, trademark, trade name, logo or design that tends falsely to represent, or is likely to confuse, mislead or deceive purchasers, Defendants' customers or members of the public that the unauthorized goods, apparel, merchandise or products manufactured, distributed, advertised, sold or offered for sale by Defendants originate from Plaintiff, or that said goods, apparel, merchandise or products are sponsored, approved, licensed, associated, connected or affiliated with Plaintiff or the official FIFA World Cup soccer competition;

(5) engaging in any conduct that tends falsely to represent, or is likely to confuse, mislead or deceive purchasers, Defendants' customers or members of the public that the actions of Defendants or Defendants themselves are sponsored, approved, licensed, connected or affiliated with Plaintiff or the official FIFA World Cup soccer competition;

(6) affixing, applying, annexing or using in connection with the manufacture, distribution, advertising, sale, offering for sale or other use of any goods, apparel, merchandise or products, a false description or representation, including words or other symbols, tending to falsely describe or represent such goods, apparel, merchandise or products as being those of Plaintiff or any official FIFA World Cup organization or company;

(7) otherwise competing unfairly with Plaintiff; and

(8) communicating about this action, directly or indirectly, with any person or persons from whom they purchased, to whom they sold, or whom they know to possess, control or have access to goods, apparel, merchandise or products, or parts or components thereof, bearing any copy, counterfeit, reproduction, imitation, or simulation of, or likeness to any FIFA World Cup emblems, symbols, trademarks, copyrights, names, designations or terminology;

(b) as provided by 15 U.S.C. § 1116 (a) and 17 U.S.C. § 503 (b), and within thirty (30) days of entry of judgment for Plaintiff, requiring Defendants, their agents, servants, employees, attorneys, representatives, successors and assigns and all persons, firms or corporations in active concert or participation with any of Defendants to deliver up for destruction or distribution to Plaintiff:

(1) any and all goods, apparel, merchandise, products, labels, signs, packaging, wrappers, containers, advertising materials, letterhead, business cards, and any other writings or materials used in its business, which falsely display, reproduce, copy, counterfeit, imitate or bear any FIFA World Cup emblems, symbols, trademarks, copyrights, names, designations, terminology or any simulation or variant thereof;

(2) any screens, patterns, plates or negatives used specifically for making or manufacturing goods, apparel, merchandise or products bearing any FIFA World Cup emblems, symbols, trademarks, copyrights, names, designations or terminology, or other emblems, symbols, trademarks, copyrights, names, designations or terminology, which picture, reproduce, copy, utilize or bear a substantial similarity to FIFA World Cup emblems, symbols, trademarks, copyrights, names, designations or terminology; and

(c) as provided by 15 U.S.C. § 1117 and 17 U.S.C. § 504, awarding to Plaintiff and against Defendants, jointly and severally, damages in the amount or amounts of both three times Defendants' profits and the actual damages sustained by Plaintiff, or as elected, those damages provided by 17 U.S.C. § 504 (c), plus Plaintiff's attorneys' fees and expenses, on those claims asserted pursuant to 15 U.S.C. § 1114 (1) and 17 U.S.C. § 501;

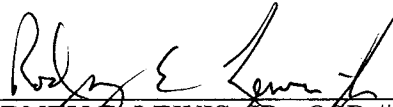
(d) as provided by 15 U.S.C. § 1116 and 15 U.S.C. § 1117, awarding to Plaintiff and against Defendants, jointly and severally, injunctive relief and damages in the amount or amounts of three times both Defendants' profits and damages sustained by Plaintiff plus Plaintiff's attorneys' fees and expenses, on those claims asserted pursuant to 15 U.S.C. § 1125

(a);

(e) awarding Plaintiff its attorneys' fees, allowable costs and such other and further relief as to the Court may seem just and proper.

DATED: September 23, 2003

DAVIS WRIGHT TREMAINE LLP

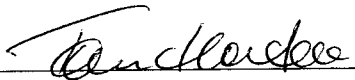
By 

RODNEY E. LEWIS, JR., OSB #74192
PAUL E. LOVING, OSB #94219
(503) 241-2300
Of Attorneys for Plaintiff, Federation Internationale
de Football Association (FIFA)

Verification

I solemnly declare and affirm under penalties of perjury as authorized agent and representative of Federation Internationale de Football Association (FIFA) that the matters and facts contained in this Complaint are true and correct.

Federation Internationale de Football Association (FIFA)

By: 

Title: Head of Legal Affairs

Executed on: 18.09.03